

AGREEMENT WITH OUTSIDE COUNSEL

THIS AGREEMENT ("this Agreement") is between the Office of the Indiana Attorney General (hereinafter the "State"), and Bennett Boehning & Clary LLP, whose address is 415 Columbia Street, Suite 1000, Lafayette, IN 47902 (hereinafter "Counsel") acting on behalf of the Indiana State Department of Health's (hereinafter "ISDH") Indiana Veterans' Home facility (hereinafter "Client").

WHEREAS, the State desires to engage Counsel to assist in certain legal matters on behalf of Client, primarily claim hearings and the pursuit of post judgment collection activities in Tippecanoe County, and Counsel is willing to render such services.

NOW THEREFORE, in consideration of the premises and the mutual promises and covenants set forth below, it is agreed by and between the State, Client and Counsel as follows:

1. Definitions.

- A. Counsel is that individual or the individual's legal firm, duly licensed to practice law in the state and federal courts of Indiana, who is contracting to provide legal services for the State.
- B. State Director is the chief administrative officer of the State and the person to whom Counsel shall be primarily answerable in the performance of duties under this contract.
- C. Designated Record Set shall mean a group of records maintained by or for the covered entity that is (a) the medical records and billing records about individuals maintained by or for the covered entity, (b) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or (c) used, in whole or in part, by or for the covered entity to make decisions about individuals. As used herein the term "Record" means any item, collection, or grouping of information that includes protected health Information and is maintained, collected, used, or disseminated by or for the covered entity.
- D. Protected Health Information (PHI) shall mean individually identifiable health information that is (a) transmitted by electronic media, (b) maintained in any medium constituting electronic media; or (c) transmitted or maintained in any other form or medium. "Protected Health Information" shall not include (a) education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. §1232g and (b) records described in 20 U.S.C. §1232g(a)(4)(B)(iv).
- E. Security Incident shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.(45 CFR §164.304)

2. Duties of Parties.

- A. State Director will oversee the terms of this Agreement to ensure all parties' compliance and to fulfill State's statutory obligation to pursue collection claims on

behalf of the Indiana Veterans' Home, as outlined in I.C. 10-17-9-11, I.C. 10-17-9-12 and I.C. 10-17-9-13.

- B. Client will refer Resident collection cases, to recover payment for long-term care services performed at Indiana Veterans' Home, to Counsel within 20 calendar days of Resident's death, in compliance with Indiana Veterans' Home's Collection Policy, #A01092006, attached as Exhibit A. Pursuant to 410 I.A.C.-16.2-3.1-6 and 42 CFR 483.10, upon the departure of a Resident, through death or moving out of IVH, Client must convey funds of the residents' trust fund accounts to the appropriate person or to the probate jurisdiction administering the Resident's estate within thirty (30) days of death if the Resident is deceased. To this end, Client will refer the cases to State, who will in turn deliver cases to Counsel.
- C. Counsel will perform the following legal services in Tippecanoe County:
Upon receipt of a Resident's case from State, Counsel shall file within seven (7) calendar days the required documents to secure judgments and/or claim (if an estate) within the statutory thirty (30) day deadline, following all applicable probate laws to secure judgments. This requirement will be strictly enforced as Client is bound by the thirty (30) day deadline. All orders sought by Counsel shall include a statement validating Indiana Veterans' Home debt, a statement instructing to whom to release funds from the former resident's trust fund accounts, and if no person or persons are identified, a statement instructing that the debt be submitted to Indiana Unclaimed via the Office of the Attorney General after the required statutory time has lapsed. Counsel shall submit a copy of the court order, upon receipt, to Jerry Horn, Superintendent, at the address listed in the "Notice to Parties" section below. Counsel may control the scheduling of the proceedings so that multiple cases may be scheduled at the same time. Counsel shall send monthly updates describing case activity and debt collecting accountings to Client at the address indicated in the "Notice to Parties" section below. Counsel shall submit payment invoices to the State Director on a monthly basis to receive payment for his/her services.
- D. State Director, or any agent or agent appointed by him, shall promptly review and process all invoices presented monthly by Counsel and forward approved claims to the Auditor of State for payment.

Pursuant to IC 4-6-5-3, the Indiana Attorney General hereby appoints, employs and hires Counsel to provide the Legal Services on behalf of Client. Counsel shall execute its responsibilities by following and applying the highest professional standards. Counsel shall provide such legal services within five calendar days of receipt of the case from State, otherwise Counsel may receive a reduction in payment for services. If the State or Client becomes dissatisfied with the work product or the working relationship with any individual assigned to provide Legal Services under this Agreement, the State or Client may request in writing the replacement of any or all such individuals, and Counsel shall grant such request.

3. **Consideration.** Counsel shall be paid ninety-five dollars (\$95.00) for each case and a one time fee of ninety-five dollars (\$95.00) for each case requiring a court appearance in Tippecanoe

County. Counsel will be reimbursed for usual business costs (i.e. certified mail, copying, long distance faxing, long distance calls, travel in accordance with state policy, filing fees and court costs). All unusual costs must be approved in writing by the State. Total remuneration under this Agreement shall not exceed twenty thousand dollars (\$20,000.00).

Counsel shall submit monthly invoices to the State showing with particularity the date and description of the Legal Services rendered. All payments shall be made in arrears in accordance with Indiana law and state fiscal policies and procedures. In accordance with I.C. 4-13-2-20, the parties acknowledge that no retainer fee has been paid in connection with this Agreement.

4. **Term.** This Agreement shall begin on October 1, 2007, and end on January 31, 2009. It may be renewed or extended only by written agreement.

5. **Access to Files and Records.**

A. The State and Client shall have full, immediate, and unrestricted access to the work product of Counsel during the term of this Agreement. Upon termination or expiration of this Agreement, Counsel shall, without further request and at no cost to the State, turn over to the State all files relating to the work performed under this Agreement. Counsel acknowledges that it may be required to submit to an audit of funds paid pursuant to this Agreement, and shall maintain at its offices all books, accounting records, and other evidence pertaining to costs incurred and invoiced under this Agreement. Such materials shall be available during the term of this Agreement and for three (3) years from the date of termination or expiration, for inspection by the State or its authorized designees. Copies thereof shall be furnished at no cost to the State or Client if requested.

B. Counsel shall have access to all information held by the State or its various agencies, including Client, which, in the opinion of Counsel, will assist in collection recovery efforts from deceased Residents. Counsel will exercise the same or higher level of care as that required of a State employee under I.C. 4-1-10 and 4-1-11 regarding the release of Social Security numbers. Should Counsel improperly release a Social Security number, Counsel shall immediately notify both State and Client.

6. **Assignment.** Counsel shall not assign any part of the Legal Services to be performed under this Agreement to a third party without the State's and the Client's prior written consent. Counsel may assign its right to receive payments to such third parties as he may desire without the prior written consent of the State and Client, provided that Counsel gives written notice (including evidence of such assignment) to the State and Client thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Agreement and shall not be made to more than one party.

7. **Audits.** Counsel acknowledges that he/she may be required to submit to an audit of funds paid through this Agreement. Any such audit shall be conducted in accordance with IC 5-11-1, et. seq. and audit guidelines specified by the State.

8. **Changes in Work.** In the event the Client requires a major change in the scope, character or complexity of the work after the work has begun, adjustments in compensation to Counsel shall be determined by the Client and State in exercise of Client and State's good faith and prudent judgment. Counsel shall not change the scope of the Legal Services to be performed pursuant to this Agreement or undertake additional work on behalf of the Client unless authorized in writing by both the Client and State. No claim for additional compensation shall be made in the absence of a prior written approval executed by all signatories hereto. This Agreement may only be amended, supplemented or modified by a written document executed in the same manner as this Agreement.

9. **Compliance with Laws and Licensing Requirements.** Counsel, its partners, associates, and employees shall comply with all applicable registration and licensing requirements, rules, standards and codes of conduct governing the practice of law and the transaction of business in Indiana. Counsel shall immediately notify the State if any disciplinary actions are brought against any of its attorneys. Counsel certifies, by entering into this Agreement, that neither it nor any of its partners, associates or any other attorney associated with Counsel is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Agreement by any federal agency or by any department, agency or political subdivision of the State of Indiana.

10. **Condition of Payment.** All deliverables provided by Counsel under this Agreement must be performed to the both the State and Client's reasonable satisfaction, as determined at the discretion of the undersigned State Representative and Client Representative and in accordance with all applicable federal, state, local laws, ordinances, rules and regulations. Counsel will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state, or local law. Counsel will not receive full payment for legal work performed outside the 30 day statutory requirement referred to in "Duties of Counsel" section of this Agreement above.

11. **Conflict of Interest.**

- A. Counsel represents and warrants that, after due and diligent inquiry, it has no Conflict of Interest (as that term is defined in the Indiana Rules of Professional Conduct) that will preclude it from providing the Legal Services.
- B. Counsel represents and warrants that it has reviewed and is familiar with the statutes and regulations relating to the ethical conduct of state employees. Counsel certifies that, after due inquiry, no partner or any spouse or unemancipated child of any partner (collectively, and "Interested Party") is an employee of the State of Indiana. If an Interested Party is an employee of the State of Indiana, Counsel shall provide the State with an opinion by the State Ethics Commission indicating that the existence of this Agreement and the employment by the State of Indiana of the Interested Party does not violate any statute or regulation relating to the ethical conduct of state employees.
- C. Counsel agrees to run a conflict of interest check within three (3) business days of receipt of collection case from the State. If Counsel has a conflict of interest,

Counsel may decline to accept that collection case and notify the State and promptly any materials sent within seven (7) business days.

- D. After the initial Conflict of Interest check performed by Counsel has occurred, Counsel shall immediately provide notice to the State and request a waiver before representing a client in any new matter against the State.

12. **Continuity of Services.** Counsel recognizes that the Legal Services provided under this Agreement are vital to the State and must be continued without interruption and that, upon expiration or termination of this Agreement, a successor, either the State or another Counsel, may continue them. Counsel shall use its best efforts and cooperation to effect an orderly and efficient transition to a successor, and shall be reimbursed for all reasonable transition costs.

13. **Disputes.**

- A. Counsel agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all its responsibilities under this Agreement that are not affected by the dispute. Should Counsel fail to continue to perform its responsibilities as regards all non-disputed work, any additional costs incurred by the State, Client, or Counsel as a result of such failure shall be borne by Counsel, and Counsel shall make no claim against the State or Client for such costs.
- B. The parties agree to resolve disputes through submission of their dispute to the Commissioner of the Indiana Department of Administration. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to Counsel and the Office of the Attorney General within ten (10) working days after presentation of such dispute for action. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written request for appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If no reconsideration is provided within ten (10) working days, the parties may mutually agree to submit the dispute to arbitration for a determination, or otherwise the dispute shall be submitted to an Indiana court of competent jurisdiction.
- C. The State may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the State of one or more invoices not in dispute in accordance with the terms of this Agreement will not be the cause for Counsel to terminate this Agreement, and Counsel may bring suit to collect these amounts without following the disputes procedure contained herein.

14. **Drug-Free Workplace.** As required by Governor's Executive Order No. 90-5 dated April 12, 1990, Counsel certifies and agrees that it will provide a drug-free workplace by:

A. Publishing and providing to all of its employees a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in Counsel's workplace and specifying the actions that will be taken against employees for violations of such prohibition; and

B. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drugs abuse in the workplace; (2) Counsel's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace; and

C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify Counsel of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction; and

D. Notifying in writing the State within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction; and

E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures of any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

15. **Funding Cancellation.** When the director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Agreement, it shall be canceled. A determination by the Budget Director that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

16. **Governing Laws.** This Agreement shall be construed in accordance with, and governed by the laws of the state of Indiana and suit, if any, must be brought in the State of Indiana.

17. **Indemnification.** Counsel agrees to indemnify, defend, and hold harmless the State of Indiana and its agents, officials, and employees from all claims and suits, including court costs, attorney's fees, and other expenses caused by any act or omission of Counsel and/or its subcontractors, if any, in the performance of this Agreement. The State shall not provide such indemnification to Counsel.

18. **Independent Contractor.** All parties are acting in their individual capacities and not as employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Parties will not assume any liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of one of the other parties. Counsel shall be responsible for providing all necessary unemployment and worker's compensation insurance for its employees. Counsel shall also be responsible for providing Counsel's own office space, support staff, and supplies along with observing other conditions of an independent contractor relationship as specified under IRS guidelines.

19. **Nondiscrimination.** As required by I.C. 22-9-1-10 and the federal Civil Rights Act of 1964, Counsel shall not discriminate against any employee or applicant for employment in the performance of this Agreement with respect to the hire, tenure, terms, conditions or privileges of employment or in any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin or ancestry. Acceptance of this Agreement signifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability or status as a veteran.

20. **Notice to Parties.** Whenever any notice, statement or other communication is required under this Agreement, it shall be sent to the following addresses by U.S. first class mail, postage prepaid, unless otherwise advised:

A. Notices to the State shall be sent to:

Brian Salwowski
Office of the Attorney General
302 W. Washington Street, ICGS 5th Fl.
Indianapolis, IN 46204

B. Notices to the Client shall be sent to:

Jerry Horn, Superintendent
Indiana Veterans' Home
3851 N River Road
West Lafayette, IN 47906

C. Notices to Counsel shall be sent to:

Bennett Boehning & Clary LLP
Attn: Stuart Boehning
415 Columbia Street, Suite 1000
P.O. Box 469
Lafayette, IN 47902

D. As required by IC 4-13-2-14.8, payments to Counsel shall be made via electronic funds transfer in accordance with instructions filed by Counsel with the Indiana Auditor of State.

21. **Penalties/Interest/Attorney's Fees.** The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law, in part, I.C. 5-17-5-1 et seq., I.C. 34-54-8-5, and I.C. 34-13-1.

22. **Security and Privacy of Health Information.**

A. Health Insurance Portability and Accountability Act (HIPAA)

1. In the performance of the services listed in this Contract, the Contractor may have access to confidential identifiable medical information known as Protected Health Information (PHI).
2. The Contractor agrees that in connection with its services performed on behalf of the State, the Contractor is a Business Associate and shall comply with the Business Associate requirements of HIPAA as described in Section B.

B. HIPAA Business Associate

1. Use of Protected Health Information. The Contractor shall not use Protected Health Information (PHI) other than as permitted or required under this Agreement. The Contractor, its agents or subcontractors, shall not use PHI received from the State in any manner that would constitute a violation of the Health Insurance Portability and Accountability Act (HIPAA) Privacy and Security Standards, 45 CFR Parts 160 and 164, if used by the State, except that the Contractor may use PHI as it relates to (1) the proper management and administration of the Contractor or to carry out legal responsibilities of the Contractor, or (2) data aggregation services relating to health care operations of the State.
2. Disclosure of Protected Health Information (PHI). The Contractor shall not further disclose PHI other than as permitted or required under this Agreement. The Contractor, its agents or subcontractors shall not disclose PHI received from the State in any manner that would constitute a violation of the HIPAA Privacy and Security Standards, 45 CFR Parts 160 and 164, if disclosed by the State, except that the Contractor may disclose PHI in a manner permitted pursuant to this Agreement or as required by law. To the extent the Contractor discloses PHI to a third party, the Contractor must obtain, prior to making any such disclosure, (a) reasonable assurances from such third party that such PHI will be held confidential as provided pursuant to this Agreement and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (b) an agreement from such third party to

immediately notify the Contractor of any breaches of the confidentiality of the PHI, to the extent it has obtained knowledge of such breach.

3. **Release of Social Security Numbers.** The parties acknowledge that the services to be performed by Contractor for the State pursuant to this Contract may require or allow access to data, materials, or other information containing Social Security numbers maintained by the State in its computer system or other records. Pursuant to 10 IAC 5-3-1(4), the Contractor and the State agree to comply with the provisions of IC 4-1-10 and IC 4-1-11. If any Social Security number(s) is/are disclosed by Contractor, Contractor agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this Contract. The Contractor shall report all unauthorized disclosures of Social Security numbers to the ISDH Privacy Officer within the same timeframes and using the same format listed in section 6 titled "Reporting of Security Incident."
4. **Safeguards Against Misuse of Information.** The Contractor agrees that it will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains or transmits on behalf of the State and to prevent the use or disclosure of PHI other than as provided by the terms and conditions of this Agreement. Contractor shall document and keep these security measures current.
5. **Reporting of Disclosures of Protected Health Information.** The Contractor shall, within fifteen (15) days of becoming aware of a disclosure of PHI in violation of this Agreement by the Contractor or its agents or by a third party to which the Contractor disclosed PHI pursuant to Section 2 of this Addendum, report any such disclosure to the Office of HIPAA Compliance (OHC).
6. **Reporting of Security Incident.** Contractor shall report to the State any security incident of which the Contractor becomes aware. Unsuccessful attempts to breach security shall be reported monthly in electronic form consistent with the format below. Successful breaches of security shall be reported to the ISDH Privacy Officer by calling (317) 233-7655 within two (2) hours of becoming aware of the breach and in electronic form to PrivacyOfficer@isdh.in.gov within twenty-four (24) hours of becoming aware of the breach using the following format:

Name of Business Associate

Incident # (number assigned by reporting entity)

Type of Incident –

Date and Time of Report (Date and time incident was initially reported)

Date and Time of Incident (Date and time incident occurred)
Time potential breach was identified

Name and Title of Person Reporting Incident
Contact Information (of person reporting incident)

Summary of Incident (Include pertinent information regarding the potential security breach)

Description of Protected Health Information Involved (Include number of participants records involved)

Action Taken

Name of Person(s) Conducting Preliminary Investigation

Contact Information (of individual responsible for Issue Analysis)

Date Investigation started

Action(s) Taken (include dates, times, and names of agencies notified of the Incident)

Conclusion

Date Investigation ended

Findings

Measures taken to address issue, and prevent any reoccurrences

If the Contractor is unable to reach the ISDH Privacy Officer at the above phone number, then report successful breaches of security to the Director of Office of HIPAA Compliance by calling (317) 233-7673 within the same timeframes indicated above. In the event a successful breach is discovered outside of normal business hours, leaving a voice message at the above listed numbers is sufficient verbal notification; however, the Contractor shall still comply with the electronic reporting requirement stated above.

7. Agreements by Third Parties. The Contractor shall enter into a written agreement with Contractor's agent or subcontractor that will have access to PHI that is received from, or created or received by the Contractor on behalf of the State pursuant to which such agent or subcontractor agrees to be bound by the same restrictions, terms and conditions that apply to the Contractor pursuant to this Agreement with respect to such PHI. Any written agreement with Contractor's agent or subcontractor must ensure that the agent or subcontractor has or agrees to implement reasonable and appropriate safeguards to protect the PHI.
8. Access to Information. Within twenty (20) days of a request by the State for access to PHI about an individual contained in a designated record set, the Contractor shall make available to the State such PHI. In the event any individual requests access to PHI directly from the Contractor, the Contractor

shall within five (5) days forward such request to the State. Any denials of access to the PHI requested shall be the responsibility of the State.

9. Availability of Protected Health Information for Amendment. Within thirty (30) days of receipt of a request from the State for the amendment of an individual's PHI or a record regarding an individual contained in a designated record set, the Contractor shall provide such information to the State for amendment and incorporate any such amendments in the PHI as required by 45 CFR 164.526.
10. Accounting of Disclosures. Within thirty (30) days of notice by the State to the Contractor that State has received a request for an accounting of disclosures of PHI regarding an individual during the six (6) years prior to the date on which the accounting was requested, the Contractor shall make available to the State such information as is in the Contractor's possession and is required for the State to make the accounting required by 45 CFR 164.528. At a minimum, the Contractor shall provide the State with the following information: (a) the date of the disclosure, (b) the name of the entity or person who received the PHI, and if known, the address of such entity or person, (c) a brief description of the PHI disclosed, and (d) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure. In the event the request for an accounting is delivered directly to the Contractor, the Contractor shall within ten (10) days forward such request to the State. It shall be the State's responsibility to prepare and deliver any such accounting requested. The Contractor hereby agrees to implement an appropriate record-keeping process to enable it to comply with the requirements of this Section.
11. Availability of Books and Records. The Contractor hereby agrees to make its internal practices, books and records relating to the use and disclosure of PHI received from, or created or received by the Contractor on behalf of, the State available to the Secretary of the Department of Health and Human Services for purposes of determining the State's and the Contractor's compliance with the HIPAA Privacy and Security Standards, 45 CFR Part 164.
12. Protected Health Information at Termination. At the termination of this Agreement, if feasible, the Contractor shall return or destroy all PHI received from, or created or received by the Contractor on behalf of, the State that the Contractor still maintains in any form and retain no copies of such information.
13. Termination. The State shall have the right to terminate the Agreement if it determines, in its sole discretion, that the Contractor has violated any provision of Title 45, Parts 160, 162, or 164 of the CFR. The State may exercise this right by providing written notice to the Contractor of termination, with such notice stating the violation of the provisions of Title 45, Parts 160,

162, or 164 of the CFR, that provides the basis for the termination. Any such termination shall be effective immediately or at such other date specified by the State in such notice.

23. **Severability.** The invalidity of any section, subsection, clause or provision of this Agreement shall not affect the validity of the remaining sections, subsections, clauses or provisions.

24. **Taxes.** The State of Indiana is exempt from state, federal and local taxes. The State will not be responsible for any taxes levied on Counsel as a result of this Agreement.

25. **Termination for Convenience.** This Agreement may be terminated, in whole or in part, by the Client or the State whenever, for any reason, the Client or State determines that such termination is in the best interest of the Client or State. Termination of services shall be affected by delivery to the Counsel of a Termination Notice at least fifteen (15) business days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The State will not be liable for Legal Services performed after effective date of termination. Counsel may terminate this Agreement as provided by Rule 1.16, *Indiana Rules of Professional Conduct*.

26. **Travel.** Neither State nor Client will reimburse for travel expenses incurred under this Agreement. The flat fee schedule set forth in paragraph 3, above, has been calculated to take into account Counsel's travel time and expenses.

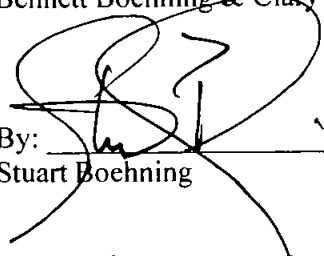
27. **Waiver of Rights.** No right conferred on any party under this Agreement shall be deemed waived and no breach of this Agreement excused, unless such waiver or excuse shall be in writing and signed by the party claimed to have waived such right.

28. **Binding Authority; Non-Collusion and Acceptance.** The undersigned attests, subject to the penalties for perjury, he is duly authorized to execute this Agreement, and that he has not, directly or indirectly, entered into or offered to enter into any combination, collusion, or agreement to receive or pay, and that he has not received or paid, any sum or money or other consideration for the execution this Agreement, other than that which appears upon the face of this Agreement.

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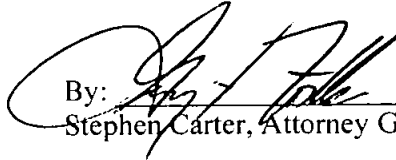
IN WITNESS THEREOF, Counsel and the State by their duly authorized representatives have executed this Agreement as of the dates set forth below:

Bennett Boehning & Clary LLP

By: 
Stuart Boehning

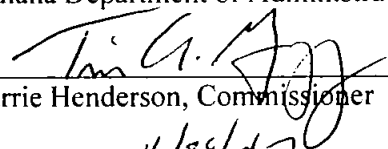
Date: 11-16-07

Indiana Office of the Attorney General

By: 
Stephen Carter, Attorney General (for)

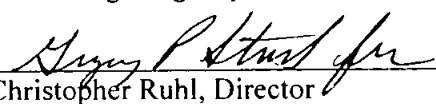
Date: 11-20-07

Indiana Department of Administration


Carrie Henderson, Commissioner

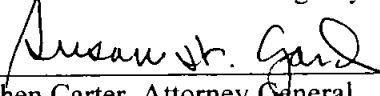
Date: 11/28/07

State Budget Agency


Christopher Ruhl, Director

Date: 11-28-07

Approved as to Form and Legality:

By: 
Stephen Carter, Attorney General (for)

Date: 11/28/07